

AUSTIN, December 3, 1850.

House met pursuant to adjournment—roll called—quorum present.

Mr. Jowers, chairman of the committee on Engrossed Bills, made the following report, which was accepted:

COMMITTEE ROOM, December 3, 1850.

To Hon. C. G. KEENAN,

Speaker of the House of Representatives:

The committee on Engrossed Bills have examined an act for the relief Alexander McCulloch, and find the same correctly engrossed.

Mr. Franklin introduced a bill, to be entitled an act to make valid the official acts of the officers of the County Court of Galveston county; read first time.

Mr. Winfield introduced a joint resolution to amend a joint resolution for the relief of the heirs of Benjamin D. Nobles, deceased, approved December 31st, 1849; read first time.

On motion, rule suspended; bill read second time, and ordered to be engrossed.

Rule further suspended, read third time and passed.

Mr. Russell moved that the House now proceed to take up the business on the Speaker's table, and to the orders of the day.

On motion of Mr. Dickson, the House adjourned until half-past 11 o'clock, A. M.

HALF-PAST 11 O'CLOCK, A. M.

House met—roll called—quorum present.

Mr. Russell moved that the House now proceed to take up the business on the Speaker's table, and the orders of the day; lost.

Mr. Burney, chairman of the committee on Private Land Claims, returned to the House sundry papers and documents, without any action thereon, and asked to be discharged from the further consideration of the same.

Mr. Burney, chairman of the Joint committee on Enrolled Bills, made the following report, which was accepted:

COMMITTEE ROOM, December 3, 1850.

Hon. C. G. KEENAN,

Speaker of the House of Representatives:

The Joint committee on Enrolled Bills, have examined a bill for the relief of M. W. B. Armstrong; also, an act for the relief of Zachariah N. Morrell; also, an act for the relief of Benjamin Burke; also, a bill regulating the pay of certain volunteers who

served in 1842; also, a bill for the relief of the heirs of A. Kent, dec'd; also, an act to incorporate the Waco Male and Female Academy, in the county of McLennan; also, an act to amend the 6th section of an act concerning slaves, approved 5th February, 1840, and find the same correctly enrolled, and having been signed by the Speaker of the House of Representatives and President of the Senate, were this day transmitted to his Excellency, the Governor of the State for his approval.

On motion of Mr. Burney, a committee, consisting of Messrs. Burney, Russell and Bee, was appointed to act in conjunction with a committee of the Senate, to wait upon his Excellency, the Governor, and inform him that the two Houses were ready to adjourn, *sine die*, at 12 o'clock, M.

A message was received from the Senate, requesting the House to return to that body the several bills relating to the organization of the Supreme Court of the State of Texas.

Messrs. Sterne, Patrick and others, were granted leave to withdraw certain petitions and documents.

Mr. Burney, chairman on the part of the House of the select committee appointed to wait upon his Excellency, the Governor, and inform him that the two Houses were ready to adjourn, *sine die*, at 12 o'clock, M., reported duty performed; and that his Excellency returned for answer, that he desired to make a communication in writing to the House of Representatives, previous to adjournment, after which, he should have no further communication to make.

A message was received from his Excellency, the Governor, returning to the House an act to be entitled an act to amend an act to incorporate the Galveston Steam Ferry, Freight and Tow Boat Company, approved 20th March, 1848, accompanied by a communication in writing.

On motion, the communication was taken up and read as follows:

EXECUTIVE DEPARTMENT,
Austin, Texas, December 3, 1850. }

*To the Honorable Members of the
House of Representatives.*

GENTLEMEN:—I herewith return to the House of Representatives, in which it originated, an act entitled an act to amend an act entitled an act to incorporate the Galveston Steam Ferry, Freight and Tow Boat Company, approved 20th March, 1848, with a brief statement of my reasons for withholding my approval of its provisions.

I believe the bill to be violative of rights secured by the Constitution of the State.

The original bill, of which this is amendatory, creates a private corporation, the object of which is, unquestionably, individual interests. Public convenience may be incident to, or subsequent upon the enterprize, but it is impossible to say that the private property of individuals, which might under the provisions of the bill be condemned, was applied to *public* use. The 14th section of the bill of rights, declares that "no persons property shall be taken or applied to public use, without adequate compensation being made, unless by consent of such person!!" The public convenience may require a Ferry at the point contemplated by the Company, and for this single object, the enterprize might bring within the provisions of the Constitution, such landings as might be necessary; but the latitude given to the County Court by the bill, both in respect to the quantity and the objects of the lands to be condemned, coupled with the fact that the decision of the court is final; no appeal being provided, makes it, in my judgment, most dangerous to private rights.

I believe, moreover, that the spirit, if not the letter of the constitution of the State, is infringed in not providing a jury to assess the value of the land sought to be condemned.

If private property may be condemned for the use of this, or any similar corporation, it should only be done by laws amply securing the owners against oppression and injury. The *necessity* of the condemnation of private property, and its value, are, it seems to my mind, facts appropriately referable to a jury of the country, and the decision as in any other case, should be subjected to appeal to the highest judicial tribunal in the State.

For the reasons thus briefly stated, I cannot sanction its provisions.

I will add, that the law creating the company a corporation, is found among the private acts of the Legislature, and can only be considered a private act—the corporation is private, and not public. Under these considerations I feel compelled to return the bill to your honorable body.

P. H. BELL.

A BILL

To be entitled an act to amend an act entitled an act to incorporate the Galveston Steam Ferry, Freight and Tow Company, approved 20th March, 1848.

SECTION 1. *Be it enacted by the Legislature of the State of Texas,* That in order the better to secure the objects of the act hereby amended, the said corporation shall have the power to appropriate and own such land as may be necessary and suitable for a ferryboat landings, at the various points on Galveston Bay

and its tributaries, and to erect thereon wharf and cattle pens, for the convenience of landing passengers, freight and stock at such points and places as the said corporation may select, upon compensating the owners or claimants of land for the same, at its cash valuation, which compensation and valuation shall be ascertained in the following manner : The corporation shall present a petition to the Chief Justice of the county in which such lands may be situated, designating what lands are required for said landings, wharfs and cattle pens, and stating as near as can be ascertained, who are the owners or claimants of said lands. Whereupon the Chief Justice shall appoint a day, not less than twenty, nor more than thirty days from the time of filing such petition, for the County Commissioners to convene at the usual place of holding their sessions, at which time and place the parties interested shall have been notified to appear ; twenty days notice having been given in writing, posted up at three public places in the county where the land lies, of time, place and object of the meeting of the Board of County Commissioners, and at which time and place as aforesaid, or at an adjourned session, to a more convenient time and place, the said County Commissioners shall ascertain and assess the cash value of such lands, and the amount the owner or claimants are entitled to, as a fair and full remuneration for said lands.

SEC. 2. That the said Board of County Commissioners shall hear such testimony of witnesses as may be introduced by the parties concerned, touching the value of said property, or in the absence of witnesses or of the parties interested, the Board of County Commissioners shall proceed from the best evidence they may be in possession of, or can procure, to assess the cash value of the land, and render their award in writing, giving a particular description of the property and of its valuation, which shall be returned to, and recorded in the office of the County Clerk of the County Court of the county in which the land lies, and the amount of the said appraisement or valuation, shall be paid by the corporation to the owner of the said land, or be deposited in the County Treasury of the county, for the use of the owner, or owners, as aforesaid, and the said lands shall be considered as condemned and appropriated to the use and benefit of the corporation, in fee simple, for the purposes contemplated by this act.

SEC. 3. Should the owners, or claimants of the lands condemned, obtain an injunction, to stay the action of the corporation, or the rights and privileges of the corporation be questioned or litigated, the said corporation shall not be stopped in their operations, or any impediments be thrown in their way, upon their filing

a bond with the Chief Justice of the county in which the land is situated, with security to be approved of by the said Chief Justice, for the payment of all or any damages, should any on a final hearing be assessed against said corporation.

SEC. 4. The Chief Justice shall assess such costs as shall be equitable to defray his own fees and that of the court—all witnessess to be paid by the party summoning them.

SEC. 5. That A. B. Adams be, and he is hereby authorized to act as one of the Commissioners authorized to open books for the subscription of stock, as named in the 7th section of the act hereby amended, in the place of John W. Durst, deceased; and at the first, or any subsequent meeting of the Stockholders they shall determine the number of Directors to be elected for the ensuing year, increasing or reducing their number above or below seven, as designated in the 5th section of the act hereby amended, and that this act shall take effect from and after its passage.

Mr. Stapp moved to refer the bill and communication above referred to, to the Judiciary committee; lost.

On motion of Mr. Williams, the bill and communication were laid on the table.

Mr. McKinney moved to take up the business on the Speaker's table, and the orders of the day; carried.

On motion of Mr. Taylor of Harrison, a bill for the relief of the heirs of W. R. Tilden, deceased, was taken up; read first time; rule suspended; read second time; rule further suspended; read third time and passed.

Mr. Russell moved to take up a bill to be entitled an act to incorporate the LaGrange Institute, in the county of Fayette; withdrawn.

Mr. Stapp introduced the following resolution which was unanimously adopted:

WHEREAS, The Hon. C. G. Keenan, Speaker of the House of Representatives, has, by the prompt and faithful discharge of his official duties, as well as by the stern decision of character, which has peculiarly characterized his course as the officer elected to preside over our deliberations, given general satisfaction, and called around him many and devotedly zealous friends; and,

WHEREAS, we confide in his ability and integrity as our Speaker, from whom we are now about to be separated, and in his generosity and devotedness as our friend; Therefore,

Be it unanimously resolved, That we do hereby tender our sincere thanks to him as our Speaker and friend, for the promptitude and efficiently with which he has presided over our legis-

lative councils; and that we will look back with unfeigned pleasure upon the time during which we have with such *unity* and *harmony* indulged in social intercourse with him and each other.

A message was received from the Senate, informing the House that the Senate had passed the bill making appropriations, with amendments.

On motion, the bill was taken up, and amendments concurred in.

The Senate returned to the House the several bills to provide for the organization of the Supreme Court.

On motion of Mr. Scott, a committee, consisting of Messrs. Scott, Jowers and Clements, was appointed to wait upon the Senate, and inform that body that the House of Representatives was now ready to adjourn, *sine die*.

The committee retired, and in a few minutes returned and reported duty performed.

Mr. Burney, chairman of the Joint committee on Enrolled Bills, reported that they have examined a bill to be entitled an act for the relief of the heirs of W. R. Tilden, deceased; also, a bill to be entitled an act making appropriations, and find the same correctly enrolled.

On motion of Mr. Fields, the House adjourned, *sine die*.

J. W. HAMPTON, Chief Clerk.

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